

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

July 24, 2003

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 24, 2003, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen, Chair; Kerry Coulter, Vice-Chair; James Barfield (in @ 1:34); Ray Warren; John W. McKay Jr.; Bill Johnson; Morris K. Dunlap; Ronald Marnell; Elizabeth Bishop; M.S. Mitchell (in @ 1:37); and Ed Sunquist. Frank Garofalo; David Wells and Bob Hernandez were not present. Staff members present were: Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Dave Barber, Land Use Supervisor; and Rose Simmering, Recording Secretary.

1. Approval of MAPC meeting minutes of July 10, 2003.

MOTION: That the minutes for July 10, 2003 be approved with a correction on Page 1 and a correction on Page 16.

COULTER moved, **MCKAY** seconded the motion, and it carried (9-0).

2. Consideration of Subdivision Committee Recommendations

2-1. SUB2003-50 –Appeal of a Lot Split Decision for Block 1, Lakeview Estates Addition.

Withdrawn and will not be heard today.

2-2. SUB2003-60 – Final Plat – BIG DOG MOTORCYCLE ADDITION, located on the northwest corner of Douglas and Hydraulic Avenue.

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. Distances should be shown for all segments of access control. The final plat shall reference the dedication of access controls in the plat's text. **Complete access control is requested along the Douglas frontage.**

Access control has been platted as requested.

- E. **Traffic Engineering** needs to comment on the need for additional right-of-way. **The Subdivision Committee has approved a 10-ft sidewalk and utility easement along New York north of Victor. Additional right-of-way along Pennsylvania has been waived.**

Street right-of-way has been dedicated as requested.

- F. The plat includes the vacation of the north half of the 15-ft alley located at the southwest corner of the site. A separate vacation case has been submitted for the 15-ft alley. This vacation case will need to be completed prior to the recording of the plat.
- G. Guarantees are required for the closure of the street return for Victor Street and for the alleys.
- H. The MAPC signature block needs to reference "John L. Schlegel, Secretary".
- I. The owner's certification needs to be revised to reference the spelling of the owner's name corresponding with the name denoted in the platting binder.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (9-0).

2-3. SUB2003-72 – Final Portion of an Overall Preliminary Plat – TYLERS LANDING SECOND ADDITION, located south of 37th Street North and east of Tyler Road.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A guarantee is required.**
- D. The name of the railroad needs to be revised to Kansas-Oklahoma Railroad.
- E. Tyler Road shall be labeled as "(87th W)".
- F. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.

- J. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- K. The MAPC signature block needs to reference "John L. Schlegel, Secretary".
- L. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- M. Lot 40, Block B does not meet the 25-ft lot frontage requirement.
- N. Lot 40, Block B does not conform with the 50-ft lot width standard which is measured at the building setback line. An increase in the distance of the building setback from the road would meet the standard.
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy and SBC have requested additional easements.**
- Y. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (9-0).

2-4. SUB2003-73 – Revised One-Step Final Plat – HIDDEN GLEN ADDITION, located on the west side of Hydraulic, between 44th and 45th Street South.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A guarantee is required.**
- D. A note on the final plat indicates that 5-ft interior side yard setbacks are platted for all of the lots. The Zoning Code allows 5-ft side yards on lots up to 6,000 sq. ft.; however 6 feet is required for larger lots. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- E. The applicant shall guarantee the paving of the internal streets, in addition to 44th St., 45th St. and Lulu. For the narrow public 32-foot streets, this guarantee shall be for the 29-foot paving standard. For the 44-ft and 60-ft streets, the guarantee shall be for a 31-ft paving standard.
- F. **City Engineering** requests the dedication of additional right-of-way width for Hydraulic to conform with the 60-ft half-street right-of-way required for urban arterials.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- J. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- K. The MAPC signature block needs to reference "John L. Schlegel, Secretary".
- L. The Applicant is reminded that an updated platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.

- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy and Hidden Glen have requested additional easements.**
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (9-0).

2-5. SUB2003-56 – One-Step Final Plat – KELMAR MEADOWS ADDITION, located on the south side of 125th Street North and the west side of 143rd Street East.

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Harvey County Rural Water District #1. The applicant shall contact this water district to determine the ability of this property being platted to connect to their water line and submit a letter to MAPD and **County Code Enforcement** from the water district in that regard.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A detailed flood study is needed showing limits of the flood plain and floodway. Results of the flood study are recommended to be submitted to FEMA for letter of map amendment.**
- E. Property corners need to be set on the right of way line.
- F. Per Sedgwick County Fire Department, access drives to any structures in access of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface needs to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed.)
- G. **County Engineering** needs to comment on the need for access controls. **County Engineering has approved one opening on 125th St. and one opening on 143rd St. located a minimum of 660 feet from the intersection (measured from the centerlines of the arterials).**
- H. A major intersection right-of-way needs to be platted. An additional 25-ft x 25-ft corner clip is also needed at the intersection corner.
- I. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.
- J. The signature line for the County Clerk needs to be revised to reference "Don Brace".
- K. The signature line for the County Commissioners Chairman needs to reference "Tim R. Norton".
- L. The MAPC signature block needs to reference "John L. Schlegel, Secretary".
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (9-0).

2-6. SUB2003-71 – One-Step Final Plat – REPLAT OF KINKAID PARK ADDITION, located on the south side of Pawnee and the east side of Broadway.

- A. City water services are available to serve the site. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted. **Utility easements for water services need to be platted.**
- B. A temporary easement by separate instrument should be submitted to cover the existing sewer line to be abandoned unless the sewer line is abandoned before the plat is recorded.
- C. A guarantee for the sewer abandonment will be required.
- D. **The 10-ft sewer easement needs to be increased to 20 feet and extended to serve Lot 2C.**
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- F. **City Engineering** needs to comment on the status of the applicant's drainage plan. **Drainage improvements are needed at time of site development.**
- G. In accordance with the CUP amendment, guarantees shall be provided for extending the left-turn center lane on Broadway to the southern opening to Lot 2A, and extending the right-turn decel lane on Broadway from Marion Road to form a decel lane with at least 100 feet of taper and 150 feet of storage, as determined by the Traffic Engineer.
- H. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. In accordance with the CUP amendment, the opening to Lot 2A along the south property line shall be closed, and the middle entrance on St. Francis shall be closed.
- I. The plat proposes four access openings along Pawnee and four openings along Broadway in accordance with the CUP. Distances should be shown for all segments of access control. The final plat shall reference the dedication of access controls in the plat's text. **Two openings along both Pawnee and Broadway have been approved.**

Access controls need to be revised to only include platted property. The applicant is advised that the CUP needs to be revised accordingly.

- J. **County Surveying** has requested a central angle (delta) with curve data.
- K. The 20' portion of building setback along the east side of Lot 2A needs to be located.
- L. The plat name in the owner's certificate needs to be corrected to match the title block.
- M. The plat name needs to be included on the Planning Commission certificate.
- N. **County Surveying** has requested a bearing on internal lot lines.
- O. **County Surveying** has advised that the storm sewer easement along the south line of Lot 2A needs to be located. (20' north of south line)
- P. **County Surveying** has advised that the 10' sanitary sewer easement running southwest-northeast needs to be located.
- Q. **County Surveying** has advised that interior bearings need basis shown since some are plat and some are SPCS.
- R. The lot lines need to be solid lines.
- S. In accordance with the CUP amendment, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- T. **Traffic Engineering** has requested additional right-of-way along St. Francis. The Subdivision Regulations require a 35-ft half-street right-of-way for a commercial street.
- U. The lots shall be renumbered as 1 through 6, Block A.
- V. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of to the Kinkaid Park Commercial CUP (CUP 2003-19, DP-43 Amendment #3).
- W. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- X. The City Council certificate needs to be revised to reference Carlos Mayans, Mayor.
- Y. The signature line for the City Clerk needs to be revised to reference "Pat Graves".
- Z. The County Commissioners certificate may be deleted as this plat is located within the city of Wichita.
- AA. The MAPC signature block needs to reference "John L. Schlegel, Secretary".
- BB. The MAPC signature block needs to reference "Bernard A. Hentzen, Chair".
- CC. Marion Rd. which abuts the plat to the south, shall be designated on the plat along with its right-of-way width.
- DD. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- EE. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- FF. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- GG. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- HH. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- II. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army

Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- JJ. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- KK. Perimeter closure computations shall be submitted with the final plat tracing.
- LL. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- MM. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- NN. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (9-0).

2-7. SUB2003-74 – One-Step Final Plat – B.E.M. HEIN ACRES ADDITION, located on the west side of 263rd Street West, south of 69th Street North.

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan has been approved. The drainage easement needs to be enlarged. Minimum pads need to be platted at 1440.**
- D. The name of the railroad needs to be revised to "Kansas-Oklahoma Railroad".
- E. **County Engineering** has advised that a Flood reserve may be required to cover the area inundated by the 100-year flood.
- F. Access controls need to be platted along 263rd St. West. The final plat shall reference the dedication of access controls in the platlor's text. **County Engineering has approved two openings.**
- G. Per Sedgwick County Fire Department, access drives to any structures in access of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface needs to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed.)
- H. Additional right-of-way is needed along 263rd St. West. The Access Management Regulations requires a 60-ft half-street right-of-way width along rural arterials.
- I. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.
- J. The signature line for the County Clerk needs to reference "Don Brace".
- K. The MAPC signature block needs to reference "John L. Schlegel, Secretary" and "Bernard A. Hentzen, Chair".

- L. The signature line for the County Commissioners Chairman needs to reference "Tim R. Norton".
- M. The Applicant is advised that if platted, the building setback may be reduced to 85 feet from the centerline of 263rd St. West to conform with the Zoning setback standard for County section line roads.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (9-0).

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- 2-8. **SUB2003-76 – One-Step Final Plat – HAWTHORNE SECOND ADDITION, located north of 21st Street North, east of 127th Street East.**
- A. Petitions have been provided with the Hawthorne Addition for sewer, water and paving improvements. **City Engineering** has requested new guarantees.

The applicant shall contact **Debt Management** regarding the need for a respread agreement for special assessments due to the lot reconfiguration.
 - B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
 - C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
 - D. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- E. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- F. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- G. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- H. The street right-of-way widths need to be denoted.
- I. The MAPC signature block needs to reference "John L. Schlegel, Secretary".
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (9-0).

2-9. SUB2003-77 – One-Step Final Plat – WICHITA FAMILY VISION SECOND ADDITION, located on the west side of Tyler Road, south of Central.

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **No guarantees or easements are needed.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- D. Access controls have been platted in accordance with the Protective Overlay. The plat proposes complete access control along Tyler. A cross-lot access agreement with the commercial property to the south has been provided with the Wichita Family Vision Addition.
- E. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- F. The MAPC signature block needs to reference "John L. Schlegel, Secretary".
- G. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- O. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- P. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (9-0).

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- 3. **Case No.: ZON2003-34** – Casado-McKay, Inc. c/o John McKay (owner/applicant); Baughman Company c/o Terry Smythe (agent) request Zone change from "SF-5" Single-Family Residential to "GO" General Office on property described as;

A tract in the Southeast Quarter of Section 32, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas described as beginning 430 feet South and 30 feet East of the Northwest corner of said Southeast Quarter; thence South 95 feet; thence E 260 feet; thence North 95 feet; thence West to the point of beginning. Being Lots 17, 18, 19 and 25 and one half of the vacated street adjacent thereto, in vacated Gibbon's Gardens Addition, Sedgwick County, Kansas. Generally located on the east side of Arkansas Avenue, approximately 400 feet south of 33rd Street North

BACKGROUND: The applicant requests a zone change from "SF-5" Single Family to "GO" General Office on a 0.58 acre unplatted tract located south of 33rd Street North and east of Arkansas Avenue. The subject property is currently vacant, but formerly was developed with single family residences that recently have been razed.

The applicant proposes to construct a multi-family infill project on 6.5 acres located immediately east of the subject property. The proposed multi-family development needs a point of access to Arkansas Avenue. Since access control is platted to 32nd Street North south of the apartment property, sufficient right-of-way is not available to improve 32nd Street North, and neighboring residents to the south on Jackson have objected to apartment traffic through their neighborhood, the applicant proposes the access drive to Arkansas Avenue be located on the subject property. The Unified Zoning Code requires that access drives be zoned to permit the use to which the access is being provided; therefore, the subject property would need to be zoned to permit multi-family uses to allow the proposed access drive. Since the applicant also proposes to use a portion of the subject property for low-density office development, the applicant has requested a zone change to the "GO" General Office zoning district since it is the first zoning district that permits both office and multi-family uses.

The surrounding area is characterized by a mixture of residential and commercial uses along the Arkansas Avenue Corridor, with several non-conforming uses that were established prior to the adoption of zoning for the area in 1958. The most proximate existing commercial uses are located at the intersection of 33rd Street North and Arkansas Avenue, which is approximately 400 feet north of the subject property. The property to the south is zoned "SF-5" Single Family and was developed with a non-conforming service station for many years until it was abandoned and razed in the past decade. The properties to the north and west are zoned "SF-5" Single Family and are developed primarily with single family residences. The property to the east is zoned "MF-29" Multi Family and is undeveloped.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single family
SOUTH: "SF-5" Abandoned service station
EAST: "MF-29" Undeveloped
WEST: "SF-5" Single family

PUBLIC SERVICES: The subject property has frontage along Arkansas Avenue, a two-lane arterial street. Current traffic volumes on Arkansas Avenue are approximately 4,100 vehicles per day. The 2030 Transportation Plan estimates that future traffic volumes on Arkansas Avenue will increase to 7,300 vehicles per day and recommends that the Arkansas Avenue be widened to three lanes. The 2003-2011 Capital Improvement Program contains a project to widen Arkansas Avenue in 2007. Planning staff estimates that the proposed office development would generate less than 100 trips in the peak hour; therefore, the Access Management Policy indicates that the applicant does not need to prepare a traffic impact analysis. Public water and sewer are available to serve the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for Low Density Residential development. The Office Locational Guidelines of the Comprehensive Plan recommend that low-density office sites should be generally located adjacent to arterial streets and can serve as a transitional land use between residential uses and higher intensity uses. The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a Revitalization Area. A Revitalization Area is an area that is experiencing structural and market decline where private investment and development opportunities need to be encouraged through neighborhood stabilization and rehabilitation. While the subject property does not exactly meet the Land Use Guide or Locational Guidelines, one of the enhancement strategies for a Revitalization Area is to implement flexible regulations for physical improvements. The requested zone change will facilitate new multi-family and office development in a generally declining area that has experienced little private investment for decades. Therefore, flexibility in approving a zone change that does not meet more traditional guidelines will allow other Comprehensive Plan strategies regarding revitalization to be met in this area.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting the property within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of residential and commercial uses along the Arkansas Avenue Corridor, with several non-conforming uses that were established prior to the adoption of zoning for the area in 1958. The area has been developed with a greater mixture of uses than typically found in other neighborhoods, and similar zoning and uses in the vicinity and have proven to be compatible with this neighborhood's residential areas. Therefore, the request is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single Family, which accommodates moderate-density single-family residential development and complementary land uses. Given the subject property's location along an arterial street primarily developed with a mixture of commercial and residential uses, the viability of the single-family development on the subject property is questionable. The property is more suited for non-residential or institutional uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and

buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for Low Density Residential development. The Office Locational Guidelines of the Comprehensive Plan recommend that low-density office sites should be generally located adjacent to arterial streets and can serve as a transitional land use between residential uses and higher intensity uses. The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a Revitalization Area. A Revitalization Area is an area that is experiencing structural and market decline where private investment and development opportunities need to be encouraged through neighborhood stabilization and rehabilitation. While the subject property does not exactly meet the Land Use Guide or Locational Guidelines, one of the enhancement strategies for a Revitalization Area is to implement flexible regulations for physical improvements. The requested zone change will facilitate new multi-family and office development in a generally declining area that has experienced little private investment for decades. Therefore, flexibility in approving a zone change that does not meet more traditional guidelines will allow other Comprehensive Plan strategies regarding revitalization to be met in this area.
5. Impact of the proposed development on community facilities: Any impacts on community facilities will be addressed through the platting process.

McKAY Removed himself from the bench due to conflict of interest as he is the applicant, and will abstain from the vote.

SCOTT KNEBEL, Planning staff. He presented the staff report.

DUNLAP This does not include the property that has the abandoned gas station?

KNEBEL That is correct. That is in separate ownership.

BISHOP How long has the gas station been abandoned? Do you know whether or not that underground tank issue has been addressed?

KNEBEL I do not know the answer to those questions.

TERRY SMYTHE, % BAUGHMAN COMPANY, 315 Ellis, Wichita, KS. On behalf of the applicant, the owner of the property, John McKay, is here today also to answer any specific questions you might have. We are in agreement with staff comments. As you know, this is an area that is identified as a "Revitalization Area" in the "Comprehensive Plan", and any time that you do infill like this, you have some great benefits and you have some stuff that hangs out a little bit. In this particular case, the old single-family dwelling was removed. For the old gas station to the south, we have done a Phase I environmental study, and nothing was indicated on it. We are in the process of doing a Phase II environmental study just to double check. We think this is an excellent opportunity to provide some small offices in this area as well as give another point of access to the apartments other than just 33rd Street to the North.

SUSAN KAMPLING, 3421 Arkansas, 67204. I have been in the neighborhood for 24 years. It looks like a narrow lot to put in office buildings and a drive. I don't know how they are going to do that because it is long and narrow.

DUNLAP Are you in favor or opposed to application?

KAMPLING The office and a drive or the whole apartment complex?

DUNLAP The change of the zoning to allow the driveway and the buildings. I assume they will be able to fit them on there. There are some regulations that limit the size and require setbacks, and if they do all that according to ordinance, are you favor of this application or not?

KAMPLING I was at one of the original building meetings, and I was one that said to have one exit and entrance would be bad planning for fire trucks getting in if there happened to be a fire, and that we needed another entrance/exit. So I was pleased that they pursued another avenue.

DUNLAP So you are in favor of the application?

KAMPLING Yes. I am nervous as a resident of that area. I want a good, stable, nice looking place that I am going to be looking at.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, **DUNLAP** seconded the motion.

BISHOP I am prepared to vote, but would the applicant like to provide an explanation for the size issue or the layout of the plan.

JOHN MCKAY, owner and developer of the project. The reason why we bought this piece of property to begin with is because 32nd Street is a half street, a gravel street. We thought it was better to have access other than that for a number of reasons, so we purchased this piece of ground that had a house on it and we removed it. This is going to be a workforce housing project, which means that there will be educational facilities within the project for the tenants that live there. Mr. Richard Lopez with the SER Corporation will be doing the educational work in the project, and we are providing them two locations within the apartment project to do their education. The apartment complex will be a gated community, and the access proposed to Arkansas will be an emergency exit. Mr. Lopez has indicated that he might be interested in moving his operation out there, and that is why there is a combination of the two going to office because we couldn't do both projects under any other zoning.

MOTION Carries 10-0-1 (**MCKAY** abstains)

4a. Case No.: CON2003-20 (Associated with ZON2003-29) – Rosetta B. Presley (owner); Builder Development Inc., c/o Elton Parsons; Larry Qualls (contract purchaser) request Conditional Use for a Car Wash to be located within 200 feet of residential property on property described as;

and

4b. Case No.: ZON2003-29 (Associated with CON2003-20) – Rosetta B. Presley (owner); Builder Development Inc., c/o Elton Parsons; Larry Qualls (contract purchaser) request Zone change from "TF-3" Two-Family Residential to "LC" Limited Commercial on property described as;

Lots 2, 4, 6, 8, 10, 12, 14 and 16, on Arkansas Avenue, Brooks and Oldham's Addition to the City of Wichita, Sedgwick County, Kansas. Generally located Southeast corner of 21st Street North and Arkansas

Deferred from MAPC July 10, 2003

BACKGROUND: The applicant is requesting a Conditional Use to allow a 24-hour car wash to be located within 200-ft of residential zoning in the "LC" Limited Commercial zoning district. The 0.77-acre site is located on the southeast corner of the 21st Street North – Arkansas Avenue intersection. The site is currently zoned "LC" Limited Commercial on the north six (6) lots and "TF-3" Duplex residential on the south two (2) lots. The applicant also requests a zoning change for the site's two "TF-3" lots to "LC" on this agenda: ZON2003-00029. The zone change will facilitate the redevelopment of the site. The north six lots are developed as a tire repair garage and the south two lots are not developed.

The 21st Street – Arkansas Avenue intersection, where the site is located, marks the end of extensive unbroken commercial zoning strips along both the 21st Street and the Arkansas frontages. The commercial zoning and the predominately neighborhood retail/commercial development on 21st extends from the intersection, east to Broadway, broken infrequently by scattered single-family housing and several churches. Although the Arkansas frontage north of the intersection is zoned commercial up to 25th Street North, it is developed more as single-family residential with churches, a post office and not infrequent neighborhood retail and office mixed in. Behind these two street's commercial zoning strips, there is a mixture of single-family, duplex residential and multi-family zoning, which have been developed predominately as single-family residential.

The site (with the exception of its two "TF-3" zoned lots) is one of four "LC" zoned sites on the 21st Street – Arkansas intersection. The other three sites are developed as a Kentucky Fried Chicken fast food restaurant (a national franchise, west side), an O'Reilly's auto supply store (regional franchise, northwest side) and a Quick Trip convenience store (regional franchise northeast side). These three developments are a more intense commercial activity (size of stores, hours of operation, services provided) than the predominately neighborhood retail in the area. These three sites are also probably among the most recent developments in the area, where older development prevails. The site has "TF-3" zoning on its south, southeast and southwest sides, with both sides developed as single-family residential and a duplex. South of the intersection, Arkansas is a residential road, zoned duplex on both its sides, developed predominately as single family residential. There is a church and an elementary school along this portion of Arkansas on its west side. The Arkansas River is a barrier along the west side of this south portion of Arkansas Avenue, which ends at the North High School campus. North Woodland Park and the single-family residences surrounding it, are one block west of the site. The site has an older freestanding building used for retail and a restaurant on its east side.

The applicant has submitted a site plan. Dedication of 10-foot of ROW to 21st Street North, a 10-foot sidewalk and utility easement along 21st Street North, 10-foot of ROW to Arkansas and the extent the alley needs to be paved are issues that have been brought to the applicant's attention. The extent of the paving of the alley will be determined by the drainage plan, during replatting. The applicant will not to submit a revised site plan to address these issues.

CASE HISTORY: The site is platted as Lots 2 – 16 (even), Brooks and Oldham Addition, which was recorded in 1902. An exception, BZA 1-63, with conditions for a car sales lot on the east 70-feet of Lots 2, 4, 6, 8, 10, & 12 was approved by the BZA 02-26-1963. DAB VI considered this conditional use request for a car wash at their July 16, 2003 meeting. The property owners abutting the south side of the car wash site protested the car wash, noting that the car wash property would be 8 feet from their bedroom window. They protested that a 24-hour car wash was not a compatible use next to residential as presented with a 5-foot buffer and that the car wash would cause their property to decrease in value as residential. The DAB recommended approval of the conditional use and the zone change (9-0) per staff's

recommendation and (1) the buffer on the south side be increased to a minimum of 10-feet, (2) no parking on the south side of the car wash site and (3) approval of the ingress – egress to the site be given careful consideration by the Traffic Engineer, in regards to full movement and right in – right out.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC" Limited Commercial "B" Multi-Family	Convenience store, auto supply fast food, restaurant
SOUTH:	"TF-3" Duplex	Single-family residential
EAST:	"LC" Limited Commercial "TF-3" Duplex	Free standing retail, duplex
WEST:	"LC" Limited Commercial "TF-3" Duplex	Fast food, single-family residential

PUBLIC SERVICES: The north side of the site has frontage on 21st Street North, a four-lane arterial with left-turn lanes. Arkansas Avenue, on the site's west frontage is a residential road. North of the intersection Arkansas is a three lane arterial. There are approximately 12,349 ATD north off the intersection, approximately 5,149 ATD south off the intersection, approximately 14,587 ATD west off the intersection and approximately 17,411 ATD east of the intersection. Recent improvements to the intersection include left turn lanes for traffic going north, east and west, plus brick laid in the pedestrian crosswalk areas. There no other CIP projects scheduled. Municipal water and sewer services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: Wichita Land Use Guide" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this property, including the two undeveloped "TF-3" lots as being "commercial". The Unified Zoning Code requires a Conditional Use for a car wash when it is located in "LC" zoning or within 200 feet of residential zoning. The Unified Zoning Code lists 14 conditions that a car wash must comply with. Any modifications recommended by the MAPC to these conditions would require the request to be forwarded to the Wichita City Council for a final decision.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the Conditional use and the zoning change be APPROVED, subject to replatting within a year and the following conditions:

- A. The car wash shall be developed and maintained in compliance with all the requirements of Section III-D.6.f of the Unified Zoning Code.
- B. The applicant shall submit a revised site plan for approval by the Planning Director, prior to the issuance of the Conditional Use resolution. The revised site plan will include on site pole lights no higher than 14-foot with no lighting located south of the entrance off of Arkansas Avenue, hooded and directed onto the site, a 20-foot monument 138-square foot in size, parking shown on either side of the vacuum islands (lighting on vacuum islands will be canopied), parallel parking on the south side (**note the change proposed by the DAB would eliminate this**), a 10-foot landscape buffer on the south side (**per the DAB recommendation**), the trash dumpster 20-feet from the south property line with solid screening around it, no dryer allowed on the automatic wash bay, and 6-foot masonry wall where the site abuts or is adjacent to residential zoning.
- C. The materials and design of the facilities shall be as proposed by the applicant, including pitched gabled roofs with outside walls constructed with a combination of concrete block, synthetic stucco or similar materials.
- D. The applicant shall turn in a landscape plan, including evergreens every 15-feet in the south landscape buffer for approval by the Planning Director.
- E. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- F. The applicant shall dedicate access control along 21st Street and Arkansas, allowing one opening onto Arkansas, per approval of the Traffic Engineer. The applicant will use the alley onto 21st Street North as access to the site.
- G. The circulation and queuing will pattern shall be approved by the Traffic Engineer prior to construction on the site.
- H. The applicant shall provide guarantee for the paving the length and entire width of the alley where it abuts the site's west side or the entire length of the alley if the Public Works Engineer requires it. Improvements will be to City Standards, as approved by the Public Works Engineer.
- I. Dedicate 10-foot of ROW to 21st Street North, 10-foot of sidewalk and utility easement to 21st Street North and 10-foot of ROW to Arkansas.
- J. After a review of the development and upon appropriate findings, any violation of the conditions of approval will allow the Conditional Use to be declared null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The area has extensive unbroken commercial ("LC" and some "GC" zoning) zoning strips along the 21st Street and Arkansas frontages, north and east of their intersection. The 21st Street frontage is almost exclusively neighborhood retail and commercial. The Arkansas

frontage is more single family with not infrequent neighborhood retail and office mixed in. The nearest properties zoned residential are immediately behind the commercial zoned strips and are developed predominately single-family residential. This residential development - neighborhoods are extensive behind the commercial strips. The 21st - Arkansas intersection, where the site is located, has probably the most recent development in the area (the other probably being a restaurant just north of the intersection) and the development is more commercial in its character, rather than neighborhood retail.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" Limited Commercial, which accommodates office, retail, commercial and complementary land use. Given the site's location on the two arterials and the retail /commercial character of the Arkansas and 21st strips with the abutting residential, it could be developed for retail, office, commercial or complementary land uses. The rezoning of the "TF-3" lots to "LC" would facilitate redevelopment of the site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting abutting residential zoning and developments.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "commercial" uses. "Commercial" accommodates office, retail, and commercial and complementary land use. The existing three developments on the 21st - Arkansas intersection all share similar intensity of uses with the proposed car wash, all which are less neighborhood retail and more commercial in character. The Quick Trip regional convenience store across 21st Street and north of the site has supervised 24-hour indoor-outdoor activity, with most of it involving autos as a means of getting to it or using it for fueling. The O'Reilly's regional auto supply retail store across 21st and northwest of the site is developed exclusively for auto maintenance. The KFC national fast food restaurant across Arkansas and west of the site has extensive auto traffic going through it, while customers place their orders from their autos into an outdoor speaker. The car wash would be considered a complimentary land use (although it would represent the most intense use of the intersection) to these uses and will not have the amount of outside parking/display of autos waiting service or any of the mechanical activity as the existing tire repair store.
5. Impact of the proposed development on community facilities: Probable increase in traffic at the site including 24-hour traffic, increase in on site drainage.

MOTION: To defer until August 7, 2003.

BISHOP moved, **COULTER** seconded the motion, and it carried (11-0).

5. **Case No.: CON2003-25** – Connie B. Nordstedt; Vernon E. & Linda K. (Nordstedt) Schroeder request Sedgwick County Conditional Use to permit an Accessory Apartment on property zoned "RR" Rural Residential on property described as;

The South Half of the Southwest Quarter of Section 16, Township 25 South, Range 1 West of the 6th P.M. Sedgwick County, Kansas EXCEPT beginning at the Northwest corner of the South Half of the Southwest Quarter; thence East 310 feet; thence South 194 feet; thence West 310 feet; thence North 194 feet to beginning. Generally located on the northeast corner of 101st Street North and 87th Street West (Tyler) Sedgwick, KS

BACKGROUND: The applicant is requesting a "Conditional Use" to allow an accessory apartment on an approximately 3.10-acre site located on 80-acres northeast of the 87th Street West – 101st Street North intersection, 10312 North 87th Street West. The property is zoned "RR" Rural Residential. The applicant proposes to build a 1,260 square foot building with one bedroom, kitchen, utility room, bathroom and a living room. The building will be on the same site as the applicant's parent's home (approximately 1,500 square-feet) and will allow them to assist the parent. Since the building will contain kitchen and sleeping quarters, it is classified as dwelling unit and thus requires "Conditional Use" approval for an accessory apartment.

The applicant's mother owns the approximately 80-acres surrounding the site. Mature shelterbelts will separate the accessory apartment from the primary residence located on the south side of the site and another residence north of the site. The site has numerous outbuildings, built of metal or wood, that are used for farming purposes. The applicant originally proposed converting a portion of one of the out buildings to the accessory apartment, but found the cost prohibitive. The applicant now proposes a metal building, with brick, synthetic stucco or a similar material for siding on part of the exterior wall. The location of that building is not shown on the site plan, but is north of it and a revised site plan is required. The applicant has contacted Sedgwick County and obtained approval for hook up to the lagoon on the site.

The surrounding area is rural in character, mostly agricultural fields and pastures with scattered single-family residences on acreage. The exceptions are a large lot subdivision (fifteen 1.95-4.00-acre lots) approximately 1 mile west of the site

and an unplatted 16 lot (approximately 4.98-acre lots) manufactured home site. The proposed site is 2 ¼ miles southwest of Sedgwick and in its area of zoning influence.

As per the Unified Zoning Code, the "Conditional Use" requirements for accessory apartments stipulate the following:

- (a) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (b) the appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (c) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (d) the water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

CASE HISTORY: The property is unplatted. The Sedgwick Planning Commission considered the request for a Conditional Use for an accessory apartment, and recommended approval (6-0) per Staff's recommendation at their July 15, 2003 meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" Rural Residential	Agricultural
SOUTH:	"RR" Rural Residential	Agricultural
EAST:	"RR" Rural Residential	Agricultural
WEST:	"RR" Rural Residential	Agricultural

PUBLIC SERVICES: 87th Street West and 101st Street North are unimproved township roads. The 2030 Transportation Plan projects neither road's status to change. There are no traffic counts at this location and no CIP projects. The site is not in a Rural Water District. The site has a lagoon; there is no access to public sewer.

CONFORMANCE TO PLANS/POLICIES: The 2001 Sedgwick County Development Guide Land Use Guide of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* designates this area as "Rural". The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED subject to the following conditions being completed within a year:

- 1. The accessory apartment shall be subject to all requirements of Section III-D.6.a of the Unified Zoning Code.
- 2. Provide an accurate description of the approximately 3.10 acre site within 30-days of approval of this request.
- 3. Provide a revised site plan showing the location of the accessory apartment within 30 days of approval of this request.
- 4. The applicant shall obtain all applicable permits, including but not limited to building, health, and zoning.
- 5. The accessory apartment shall be smaller than the principal residence or 1,260 square feet in size as stated in the application.
- 6. Any violation of these conditions shall render this Conditional Use Permit null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The area is rural agricultural in character, with scattered single-family residences on acreage. The closest single-family residence is 100-feet north of the site, with all other residences over ¼ mile away. Types of residential housing and their building materials in the area includes both single and two story housing with wood frame, brick, a mix of brick with some type composite or wood siding and some manufactured housing.
- 2. The suitability of the subject property for the uses to which it has been restricted: Accessory apartments are allowed as a "Conditional Use" in "RR" zoning provided the applicant and the site meet the specified criteria. The applicant and the site appear to meet these. While the accessory apartment's proposed building materials of metal and a non-metal siding are not the same building materials of the primary structure (a composite lap siding), they are not out of character with the area and as such meet the criteria of architectural compatibility requirement.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental effect should be minimized by the large size (80 acres) of the applicant's property around the approximately 3.10 -acre site, which is more than ample to maintain a rural character.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code makes specific provision for accessory apartments in "RR" zoning. This application appears to comply with all the provisions outlined in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The applicants' request should have a minimal impact on community facilities; there is no public water or sewer available, the site is not in a Rural Water District and an accessory apartment will have minimal impact on the unimproved township roads.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **COULTER** seconded the motion, and it carried (11-0).

6. **Case No.: ZON2003-35** – Greenwich, LLC, c/o General Financial Services Mashnook (owner), Baughman Company, PA, c/o Terry Smythe (agent) request Sedgwick County Zone change from "RR" Rural Residential to "LI" Limited Industrial on property described as;

A tract in the Southeast Quarter of Section 28, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at the Southwest corner of said Southeast Quarter; thence N 0 degrees 42'08" W along the West line of said Southeast Quarter, 296.03 feet to a point on a curve having a radius of 470.87 feet; thence southerly, southeasterly and easterly along said curve and through a central angle of 61 degrees 28'38", an arc distance of 505.23 feet, having a chord bearing of S 60 degrees 06'04" E, 481.34 feet to the point of tangency of said curve, said point being 50 feet north of the South line of said Southeast Quarter as measured at right angles; thence South 0 degrees 50'23" E, 50 feet to the South line of said Southeast Quarter; thence S 89 degrees 09'37" W, 414.43 feet to the place of beginning; AND EXCEPT that portion platted as S B S Industrial Addition, Sedgwick County, Kansas. Generally located northwest corner of 37th Street North and Greenwich Road

BACKGROUND: The applicant is requesting to rezone a 149-acre tract from "RR" Rural Residential to "LI" Limited Industrial for development of industrial/warehousing types of uses. No specific users are identified for the tract.

The property comprises the quarter section of land located to the northwest of the intersection of Greenwich Road and 37th Street North, except for the ten-acre tract on the southwest corner of the quarter section. The property extends nearly one-half mile east to Lindberg Street and one-half mile north of 37th Street North. The upper reach of Dry Creek transects the property from the northwest to the southeast.

The surrounding property is used for agricultural purposes except for the ten-acre tract in the southwest corner of the quarter section that is the Sedgwick County maintenance facility, and the property to the west that is the location of the Colonel James Jabara Airport.

The site is located within Area A of the Wichita-Sedgwick County Airport Hazard Zoning Map. Properties within Area A require an Airport Hazard Zoning Permit Exemption for structures to exceed 25 feet in height. A review of the detailed Airport Hazard Zoning Map indicates that building heights on the subject property will be limited to a range of approximately 30-50 feet, with taller buildings permitted the farther to the east. A strip of land on the western edge of the site is within the building restriction line for Runway 18, and is within the runway protection zone that extends for 750 feet from the edge of Runway 18.

Several large tracts of "LI" zoning are located in the vicinity. This includes the land to the west of Jabara Airport (south of 39th Street North and west of Webb Road) and the property between K-96 and 29th Street North on the east and west (pending platting) sides of Greenwich.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "RR"	Agricultural
SOUTH: "RR"; "SF-20"; "LI"	Agricultural, Sedgwick County yard
EAST: "RR"	Agricultural
WEST: "LI"	Jabara Airport

PUBLIC SERVICES: The site has access to Greenwich Road, a paved two-lane county arterial, 37th Street North, a paved two-lane county road, and Lindberg Street, a paved two-lane road in the city of Wichita. Annual traffic counts in 2000 were 1,900 vehicles per day (ADTs) on Greenwich, 205 vehicles (unadjusted count) on 37th Street North, and 160 vehicles (unadjusted count) on Lindberg Street. No 2030 traffic projections are available. No county or city C.I.P. projects are scheduled.

The nearest water lines to extend to serve the property are approximately one mile to the west on Webb (20" line) and one and one-half mile to the south at 29th Street North and Greenwich (16" line).

The land is in the Dry Creek Basin, and was shown in the sewer master plan as being served by a new northeast sewer plant. However, the northeast sewer plant was not planned for construction until the distant future. The nearest sewer lines available are one and one-half miles to two miles west and would require force mains to serve this land.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies the western half of the property as "industrial". The eastern half of the tract is designated as beyond the 2030 urban service area and is shown as "rural residential".

The Industrial Locational Guidelines of the 1999 Update to the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial uses. Industrial uses also should be located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The Goals, Objectives, and Strategies section of the 1999 Update to the Comprehensive Plan contains the following strategy (V.D2.): "prevent encroachment of incompatible development around airports through the implementation of land use regulations that minimize high concentrations of people in takeoff/landing zones; provide appropriate noise-reducing construction; and prevent excessive building heights, glare, smoke, and other hazards to air traffic."

The Colonel James Jabara Airport Master Plan Update (1998) recommends, "to promote compatible land uses within high noise areas, hazard zones, and accident potential zones in alignment with the runway corridors. The planning agencies should discourage developers from building new residential properties, noise-sensitive community facilities, or land uses for large concentrations of people in non-residential uses which are in alignment with the Airport's existing and proposed runways." (pages 6-9 – 6-10)

RECOMMENDATION: Industrial uses, such as manufacturing, warehousing, wholesaling and business service types of uses are less sensitive to noise. These uses tend to be associated with lower concentrations of people per acre, which is desirable in proximity to airport runways. Often, high caliber industrial parks are viewed as one of the better uses to locate in close proximity to airports. Historically, Wichita's strongest employment base has been the aviation industry and related firms. The availability of industrial land in proximity to the airport could encourage linkages between the airport and the aviation industry.

The land between Webb and Greenwich extending from K-96 northward to 45th Street North is the heart of this airport/industrial district. The two tracts at K-96 and Greenwich were approved with "LI" zoning, but both tracts were subject to protective overlay provisions to restrict uses and require stronger property development standards.

Another way to achieve this caliber of industrial development is the "IP" Industrial Park district. The "IP" Industrial Park zoning classification does not permit residences, hotels, motels, RV parks, taverns, drinking establishments, retail stores, hospitals, nursing homes, schools, churches, correctional facilities, or recreational facilities. Coincidentally, these uses comprise the overwhelming majority of uses prohibited by the Airport Overlay District near McConnell Air Force Base, which indicates that these uses are recognized to have a potentially detrimental impact on airport operations. The "IP" district incorporates stronger property development standards with 50-foot setbacks along streets, prohibiting of outdoor storage and work areas in front setbacks and screening of storage in other portions of the lot, and maximum height of 60 instead of 80 feet.

Staff recommends that the zoning for the application area follow the precedents set in industrial areas to the south with use restrictions and stronger property development standards. Staff also recommends that special care be taken to further restrict uses in the immediate vicinity of the airport runway protection zones and building restriction areas.

Specific transportation improvements and access controls are not included in the staff report. It is recommended that these issues be addressed at the time of platting.

Additionally, a strip of land abutting Lindberg Street is shown on the Jabara Master Plan as being within the building restriction line, and is within the 750-foot runway protection zone for Runway 18. It is recommended that no buildings or structures be permitted within this zone.

Based on this additional information, planning staff recommends that the request for "LI" Limited Industrial zoning be DENIED and instead that "IP" Industrial Park zoning be APPROVED, subject to platting the property within one year and subject to the following provisions of a Protective Overlay District:

- 1) That portion of the subject property located within an area that extends 750 feet wide from Runway 18 and identified as the runway protection line and building restriction line shall be restricted to the following uses: agriculture (subject to Sec. III-D.6.b); surface parking lots; outside storage areas subject to limitations of the "IP" district; and airplane runways and taxiways.
- 2) That portion of the subject property located within an area that is identified the Airport Master Plan (1998) as future acquisition shall be allowed all uses permitted by-right in the "IP" Industrial Park zoning district except: auditorium or stadium; college or university; community assembly; day care, limited and general; library; convenience store; personal care service; personal improvement service; restaurant; vocational school; and asphalt or concrete plant, limited.

- 3) Transportation improvements and access controls shall be determined at time of platting.
- 4) No development shall be permitted until public water and sewer service are available to serve the site.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north, east and northwest is zoned "RR" Rural Residential and is primarily in agricultural use. Land to the southwest is a county maintenance yard, and the land on the west is Colonel James Jabara Airport; both are zoned "LI" Limited Industrial. Land west, southwest, and southeast of Jabara Airport is zoned industrial and developing with manufacturing and commercial uses, or is vacant.
4. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR", and could continue to be used as agricultural land.
5. Extent to which removal of the restrictions will detrimentally affect nearby property: The rezoning could hasten the extension of water and sewer services to this vicinity earlier than anticipated. This would push the urbanization past the identified 2030 urban service area boundary.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the *Comprehensive Plan* identifies most of this area as suitable for industrial development. Industrial uses are viewed as complementary uses with airport facilities. The industrial development is intended to compliment the continued expansion of the Jabara Airport and prohibit residential use and other commercial and institutional land uses that attract large concentrations of population to the vicinity of the airport.
7. Impact of the proposed development on community facilities: The development would require extension of water and sewer services. Depending on the types of industrial uses, it will most likely generate the need for widening the roads or adding accel or decel lanes.

MOTION: To defer until August 7, 2003.

JOHNSON moved, **BARFIELD** seconded the motion, and it carried (11-0).

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7. **Case No.: A 03-15** - The City of Wichita seeks the annexation of properties generally located north of 29th Street North and west of North Maize Road, to the City of Wichita, Kansas

DAVE BARBER, Planning staff. He presented staff report.

BARFIELD What if we do find the proposal is consistent with the Comprehensive Plan and the court rules that Maize is completely entitled to take the action that they have taken?

BARBER Then it will fall within the City of Maize. The recommendation of the Planning Commission is not binding on the municipality. It is a requirement of the state statute that the Commission make a finding, but the finding is not binding upon the host municipality. There are a couple of annexations on the agenda today, and it is more of an information item, and each municipality can act according to its best interest notwithstanding your recommendation.

WARREN The problem I have is that the Comprehensive Plan, by and large, in those expansion areas are put together by City staff predominately, for the most part. There is very little input by the outlying areas. I am thinking of the small towns like Maize, Goddard. Maybe it was their responsibility to jump in here and have input, but the fact is that did not happen. So the Comprehensive Plan in my opinion is pretty much a product of Wichita and their influence.

DUNLAP Have we already been approached by Maize, and approved it in compliance with their Comprehensive Plan?

BARBER Last month the Maize annexation came before you for the same finding, and the finding was that it is not consistent with their Comprehensive Plan nor is it consistent with the Comprehensive Plan which has jurisdiction over this area.

DUNLAP We have not given our blessing to the annexation by Maize of this area. I have the same feelings about the restrictions of the Comprehensive Plan, and it doesn't seem to matter much, and I also have strong feelings about unilateral annexations.

WARREN It has been obvious that Wichita, and this MAPC board, is far more sophisticated in their planning processes than that of the smaller towns, and so it is hard for them to compete in developing their Comprehensive Plan to the elaborateness that we have ours. So, therein, I think maybe there is a lack of equal opportunity.

BARBER We are City-County staff, and we are making an effort as part of this latest update to the Comprehensive Plan to dialogue, and meet with the small cities to address issues about how they grow together, amongst themselves, and between Wichita. Hopefully, we can make some improvements in the next version of this plan.

MCKAY Advance Plans is looking at the land use maps as we speak. We had a meeting this morning. I think one of our goals is to meet with the small towns in Sedgwick County to try to get some coordination on this, and so this in-house fighting between the big city and the little city stops. Dave, are you saying that we approve this, and then it becomes a legal matter, and if we don't do anything, then we are still out there in a no mans land?

BARBER I think regardless of what you do today, it will have little bearing on the matter before the court at this time.

MCKAY So if we would take the same stance on this as we did on Maize's request, it would not make a difference?

BARBER Honestly, I don't think it makes a difference. I am not an attorney, but my reading of the statue is that this is just an advisory comment.

BARFIELD We talk about ironing out problems. Do we, or any of the staff or the City of Wichita, sit down with the staff from Maize before this thing got to the point it is now?

BARBER We are meeting with City staff this Friday.

BARFIELD There have not been any prior meetings before this thing escalated to the point that is now?

SCHLEGEL I believe there were a series of meetings between the City of Wichita elected officials, and the City Managers office from both jurisdictions back earlier in the year prior to the elections. Somehow those talks broke down, and at that point Maize felt that they were being ignored by the City of Wichita. At that point, they moved ahead with their annexations. The City of Wichita then felt that they had been betrayed, whether that was warranted or not, and then they countered with their own annexation moves. Right now there is no dialogue going on between the two jurisdictions. There are hard feelings on both sides, and right now it is headed for court.

BARFIELD We have had these problems, and similar problems with other smaller cities, and the one that comes to mind is Bel Aire, and I wonder if we don't have a little better means of solving these problems than what we have demonstrated in the past.

MARNELL John McKay covered a little about the Advance Plans Committee working on the new maps, and the input that we are going to seek outside, in addition to just the input from within. We will hold hearings, and I think it might be helpful, Mr. Barber, if at the next meeting that you will put the outline of how we are going to go about seeking the input that we discussed in that meeting, so that people who don't feel comfortable with the process that we are going to go through will understand our process. They may not be comfortable with the resolution because there are also going to be areas of dispute, but the efforts to really get the input, and try to get an understanding of the issues from all perspectives as we make those changes, and make sure that they are realistic.

BISHOP I have a question. As I understand it, the application for unilateral annexation by the City of Maize came before us, I don't remember it real clearly, but I assume that the recommendation from staff was to find that annexation inconsistent with the Comprehensive Plan. I assume that we accepted that recommendation so this seems to be consistent with that recommendation to find that the City of Wichita is consistent with the adopted "Sedgwick County Comprehensive Plan".

WARREN We are looking at this Comprehensive Plan as a holy grail, and yet it was motivated, spirited and driven from the Wichita City office, and I would submit that there is very little input in this plan that we are trying to enforce, or that we are asking endorsement for, and there was very little input by anybody except from this office. I am going to be hard pressed to endorse Wichita's position in this.

MCKAY The ownership of this property, did they request the annexation or did the City just say that we are going to annex it?

BARBER It was by their consent.

MCKAY But did they request it?

BARBER Yes.

MCKAY They came to you and requested to be annexed?

BARBER No, they requested that the City of Maize annex them, and they did.

MCKAY The landowners requested that Maize annex them, and not the City of Wichita?

BARBER Yes, that is right, and now the City of Wichita is going to unilaterally to annex them.

RICHARD LAMUNYON, 10624 W. 31st Street North in Maize KS. I came to present to you my opinion as a residence who has currently received notice from Wichita that I am unilaterally being annexed into their City of Wichita. I am already in the City of Maize. The action here that is before you includes my home on 31st Street North, and several of my neighbors, which combined would probably be about 100 people. For your information, this property was annexed into the City of Maize by consent, by 100 percent of the individuals involved in this; individually signed, consented and requested to be a part of Maize. It was annexed by consent into the City of Maize 35 days ago. My property has already been placed on the Maize tax roles by Sedgwick County. My voting precinct has been changed by the Election Commissioner to the City of Maize. In addition, I have received this map that I got from the GIS services of Sedgwick County, and I have a copy for everyone. It is very close to being complete, but this is, as of July 21st this year showing the current city limits of Maize. My and my neighbor's position is simply this, as a resident we signed a lawful document, and we are lawfully annexed into the City of Maize by choice. We understand that, and the County clearly understands that, and the court understands it, and the only one that has chosen not to understand it is the City of Wichita. If Wichita had a concern about this annexation, or any other annexation, they had 30 days by law to appeal that annexation, and they did not. To date Wichita has not filed one thing in court. In my opinion, what they have done is chosen to ignore the law, and the wishes of the people and just bull their way ahead, and in violations of the law and in direct defiance of the court. I thought this was important that this Commission know, whether you have authority or don't have authority, I will leave that to you. It is important that you understand what was going on. As far as the Comprehensive Plan, whether you favor that or you don't, that is your choice, but the fact is that it does not set boundaries for any municipalities in this County.

MARNELL I don't think that we are the people to settle the dispute, and that is the courts job. We are asked to say that this is in compliance with the Comprehensive Plan or it is not. Do you have something that shows that this action by the City is not in compliance with the adopted Comprehensive Plan? That is all we are dealing with. We are not going to deal with court issues. Do you have evidence that this does not comply?

LAMUNYON Yes, I do. Your Comprehensive Plan does not allow you to annex properties already annexed by another City, period.

MARNELL I think maybe that is State statue that covers that.

WARREN This map you gave us, this dark orange is the City of Maize. These little white areas in between, now are those going to be in dispute?

LAMUNYON I don't think so, but the area that is in dispute now is clearly in the City of Maize. If I may go back about the issue before you not being before the court, it is. In the injunction that the City of Maize filed on Tuesday, it included two actions; number one, to enjoin the City of Wichita from annexing this particular property which they have already set a public hearing for September 9th and properties that they passed an ordinance for a week ago Tuesday that the court threw out. The City of Maize has two water wells. We have a water line that runs basically from 34th Street from 119th over to Maize Road and straight north. It was our intent of the City Council for the City of Maize to annex south along that water line. We attempted to work with Wichita, and we did succeed in January of this year, and we left there with the thought that we at least had a talking point. We received a letter back from the Commissioners that were involved in it, and basically said no, that they were going back to where they were, and that is when it was decided by the Council of Maize to proceed with annexation. Almost every bit of the annexation that you see in the City of Maize is consent annexation.

BARFIELD Is it necessary for you to file public notification before completing an annexation?

LAMUNYON Not on a consent annexation.

BISHOP I have a question for legal counsel. Essentially, the task that we have is to decide whether or not the unilateral annexation proposal by the City of Wichita is or is not consistent with the adopted Comprehensive Plan? The previous speaker has indicated to us is that it is not consistent with the Comprehensive Plan because the City of Maize has already annexed that area. So, I wonder if you can put some light on that for us. I am not sure how relevant it is in light of the Comprehensive Plan, which is simply a Plan.

DOUG MOSHIER, Law Dept., City Of Wichita. My first response is, assuming that to be true, which I am going to comment on in a second. I don't know that it is relevant to the Comprehensive Plan, which is a document developed by this body which speaks for itself. Secondly, this matter is in litigation. We have been sued by Maize about issues of annexation, and it is in court. The City of Wichita does not believe that they have effectively annexed this property. Now, I don't think this is the body to determine whether that is true or false. You don't want to hear evidence. That is where things stand. My suggestion would be that you determine this based upon the Comprehensive Plan, and if it turns out that this has been validly annexed by Maize, and the court determines that, the City of Wichita's unilateral annexation goes away and we are prohibited by State law to annex land that is validly annexed by another City. So that is the end of the story, and your finding of conformance with the Plan or non-conformance with the Plan really doesn't matter. Now, if this goes forward, and it is determined that the City of Wichita can proceed to unilaterally annex this because Maize has not acted in accordance with State statue, and this property is not within the city limits of the City of Maize, then your finding is important to that hearing that happens in September, and the consideration by the governing body. They should know whether you believe that this unilateral annexation is in conformance, or doesn't conform, with the Comprehensive Plan. I guess I agree with your analysis that you really need to decide, and I guess I don't think that you don't have to decide because Maize believes they have annexed it. That is in dispute and in court.

MCKAY Can you tell me the difference between what is happening between Maize and Wichita, right now, and what has happened on the east side of town with Bel Aire and the City of Wichita?

MOSHIER I am not sure I know what you mean. I am not aware that Bel Aire has made a mistake or done anything inappropriate in their annexation. The City doesn't contend that the annexation the City of Bel Aire has accomplished by consent were done inappropriately or not in accordance with State law.

BARFIELD I am perplexed here. The City has not filed or did not file an appeal. Why wasn't an appeal done at that time?

MOSHIER The City can't appeal consensual annexations. It is a legal argument that is in court. There is no statute of limitations for an act that is not in accordance with the State statute, and the law in Kansas is that one City can not challenge the annexation accomplished by another City directly by saying we want to file an appeal, and we are going to sue you; that we don't own any of this property here; that we are a nearby City or an adjoining City; and we want you to prove to us how you can annex this property. Wichita is saying we are proceeding to unilaterally annex this. Maize is saying that we have already consensual annexed it, and the court is going to decide.

WARREN This is the first time that I ever realized that our Comprehensive Plan had the force and affect of running out here, and saying dibbs, and now we have put dibbs on this land, we negate your right to ever consider annexing it.

MOSHIER I think that is too strong. I don't think it says that.

WARREN That is what we are asked to hear though. Does it agree with our Comprehensive Plan? Which is to imply that if that is the case, then nobody has a right to it.

MOSHIER You say today that this does not conform, and that the City of Wichita's proposed unilateral annexation of 03-15 does not conform with the adopted Comprehensive Plan, and you make that finding, and you vote, and you say that, and that get reported to the City Council. That does not prevent the City Council from annexing this property. That is an issue that would be important to the people that live there who might say we are going to sue the City, and appeal this, and challenge that, and that would be a substantial issue, and something to talk about when the courts looked at it, but it is not a veto. It does not prevent the City of Wichita from going forward. Nor if you were to say today that this does conform with the adopted Comprehensive Plan would that prevent the people in this area from challenging the annexation if the Council went forward. I don't mean to tell this body what you are deciding today doesn't mean anything. It is a significant finding. It just does not prevent anybody from going forward, nor does it red line any property as being solely within the ability of one government or another to attempt annexation.

MCKAY Years ago this similar conflict happened between Park City and the City of Wichita to where Park City was going to annex an area, and I am talking about east of the Little Arkansas River north of 53rd Street, up to 61st Street. The people there requested that they be annexed by the City of Wichita, and the City of Wichita annexed them, and there was a lawsuit, and Park City lost because those people requested annexation. Is that the similar case we have here?

MOSHIER It is different because nobody there said that either Park City did it wrong or Wichita did it wrong. They said that it wasn't right to do it. It was a suit against the County because it was the County which approved about 500 separate island annexations. That process was that those people approached the City of Wichita, in the Riverview area north of 45th and 53rd in that area, and said we want to be in Wichita. Ninety-nine percent of those requests were from people whose property did not adjoin the City of Wichita. So the City of Wichita did not have the authority to do what Maize has attempted to do, to say you adjoin our city, you have said you want to be in our city, and we are going to adopt an ordinance and annex you next week. This required the city to petition the County Commissioners to island annex about 500 tracts of land, and the County Commissioners had a public hearing, which they were by statute required to determine whether the proper growth and development of the County, and the unincorporated area of the county, would be harmed by this; or whether the proper growth and development of the Park City would be harmed by this. The County made the determination that wouldn't be the case. They made that finding, and then the City of Wichita adopted an ordinance annexing these 500 tracts. Park City sued the County, and said the County made a mistake, that these 500 tracts coming into Wichita, and not going to Park City, would hinder the property growth and development of Park City.

MCKAY The result of that was that boundary lines were set between Valley Center, Park City, and the City of Wichita.

MOSHIER No, Park City thinks so, but it didn't happen. Park City is suing the City of Wichita as well.

MARNELL When I look at the urban service areas for the 2010 and 2030 service area, it is Wichita service area, and this is from the Comprehensive Plan, and that plan has not been modified from what this map is, even those Mr. LaMunyon says that the City of Maize is inside this area. Does that annexation automatically amend this plan or does the plan stay until it is amended by the Commission?

MOSHIER The adoption of a Comprehensive Plan does not red line anything or give anybody dibbs on anything. It states what it states about projected growth and growth boundaries, and the best estimate about what is appropriate for infrastructure, and the growth around the fringes of the City of Wichita, and other cities in the county, but it doesn't prevent anybody from any government from annexation into that area.

WARREN I assume you are a part of this court case, and you have stated that our position here probably has very little relevance whether we vote one way or the other. Do you think that our position here might have some reflection on the courts?

MOSHIER Not on the case that is pending now. This will have a bearing if the court decides somebody has done it right. This will have a bearing on people who are not happy with whoever has done it right, and want to challenge that, and right now that is us, and you have already made a decision on the Maize annexation north of here. This will have a bearing on the people in this area, and their ability to challenge the likely decision of the City Council on September 8th to annex this property. So it is important.

DUNLAP The annexation question is not going to go away. I am personally offended by the land grabbing and predatory annexations by all the cities. The Comprehensive Plan that we work on I always thought, up until about 3 months ago, had some authority, but it doesn't. A small cities' Comprehensive Plan, and their growth area, can be modified, and those lines seem to be fluid, at the whim of the Planning Commissions of each of these small cities, most of whom don't have the background that those people who work on the big Comprehensive Plan have. But the changes that have got to come to solve these problems are not going to be solved at the district court level or in Wichita. It is going to be in Topeka. The League of Municipalities is not in favor of any changes at all, and I think we have to have changes, both on the status of the Comprehensive Plan, so that we have one that does mean something to everybody in the total area that it covers, and does comply with the small cities. We went out and held a lot of meeting with the small cities, and most of them didn't have very many, but some had some plans. Now we have conflicting Comprehensive Plans, and that is not going to be solved here. It is going to be a state level thing again.

HENTZEN I would like to recommend it because I think the Comprehensive Plan is not specific on this particular item. It is a plan, and that is all it is. I would like to see us make a motion to tell the courts, that both parties, that neither one of them have complied with the Comprehensive Plan.

MARNELL I think that is ducking the issue. Then you need to do it with every case because, to me, you need to look at the area which is our plan until we change it, but until we change that plan, that is the plan. The other issues are court issues.

WARREN This board has probably spent more time on the Comprehensive Plan than any other single item that we deal with. The bottom line is that it is a flawed plan, and we are bound to have one we have accepted that is a flawed plan, and have realized it. This is an eye opener today. I will not be so quick to agree to amendments and changes in the future to the Comprehensive Plan now that I know what the force and affect that they have.

BISHOP That is the reason why we establish the plans in the first place. The reason we have the plan is to direct investment. It was not just staff that had influence of that plan. There were a lot of stakeholders, and it should behoove us to try to be consistent with the Plan. I will just add this, it foreshadows the task before the Advance Plans, and to try to bring those together, and get an open dialogue going on how areas are going to grow.

BARFIELD Most of the annexation areas are unincorporated, and have not been annexed. Here we have 100 percent consent annexation, and it appears to me what we are trying to do is overturn that, and I have a problem with that.

MOTION: To decline this annexation request primarily because of the fact that the Maize annexation, regardless if we said it was in the Comprehensive Plan or not, was done by the people that's involved in it through the application procedure. They requested to be in the city limits of Maize and not the City of Wichita.

MCKAY moved, **BARFIELD** seconded the motion.

SUBSTITUTE MOTION: To accept the recommended action, and find that the unilateral annexation proposed by the City of Wichita be consistent with the adopted Wichita Sedgwick County Comprehensive Plan.

BISHOP moved, **MARNELL** seconded the motion.

WARREN I am going to oppose the substitute motion not on the basis of its right or wrong, but its relevance. I think it is totally irrelevant that we vote on that right now. I don't see any argument about where we drew a line. But I think it might have the implications if I voted with your motion, Elizabeth, that I am agreeing with the City of Wichita, as opposed to the position of Maize, and I don't want to that.

BISHOP It is simply a reflection of whether or not it is consistent with the Comprehensive Plan, and I think the relevance has been explained by Mr. Moshier several times.

MARNELL Should we make a motion to withdraw the Comprehensive Plan if we are not going to follow it.

VOTE ON SUBSTITUTE MOTION: Motion Fails 4-7

SUNQUIST, MARNELL, COULTER and BISHOP in favor of substitute motion.

VOTE ON ORIGINAL MOTION:

Carries 7-4

SUNQUIST, MARNELL, COULTER, and BISHOP opposed to original motion.

HENTZEN I think we should have a workshop.

SCHLEGEL I think this whole question of the annexations providing service areas is a question that this board is going to have to address as we get into the Comprehensive Plan update, and get into redefining what the growth areas are. If you get a pattern of annexation as is starting to evolve here in Maize, it becomes very difficult to provide municipal services, providing sewer and water lines. You are going to have conflicting or competing water and sewer lines, and folks out here won't know which police department or which fire department, or animal control person to call up if they have a problem. Continuing with this type of annexation war that is starting to occur is going to lead to bad consequences, both for the utility ratepayers, and for the taxpayers, and I think it is a job that we need to take on, and try to rationalize where these boundaries are going to occur. Just for no other reason than for rationalizing municipal services by all of these different jurisdiction. It is a question that we are going to try and bring back to you, and try to come up with some sort of rational policy that you can adopt on this.

WARREN I would hope that we would start inviting in maybe two Commissioners from Derby, two Commissioners from Mulvane, etc., and that we get their input, and we say this is what we are going to do, and how does it affect you, and we haven't done that. We have done most things in house, and I think we need to make the smaller cities more involved.

MCKAY I have worked on the Comprehensive Plan for three years now, and every time we say this is the boundary and we adjust it because of growth or whatever. I don't see any difference between what is happening on the northeast part of town and what is happening on the northwest part of town. Both are fast growing areas. The City of Bel Aire outsmarted the City by going out and purchasing this ground when they annexed it. They did two things: they made the tax base get a lot bigger, but they took a whole lot of debt when they went with it, and whether they will be able to survive it or not is one thing. As far as working hard on the Comprehensive Plan, the last Plan, the major question was whether or not you were a Home Builders or not.

MARNELL We were called racist because we were in favor of allowing growth which meant that we automatically destroyed the inner city area.

MCKAY We even had the local minister against us. To me, the Comprehensive Plan is something we have to do by State statute. It is a guideline of growth, and just because I draw a line here does not mean it is concrete. It is a guideline. The very first meeting in the Advance Plans I brought up the issue of the northeast with Bel Aire. The comment was we are going to have to make adjustments because it is no longer the way it used to be. This basically is not a whole lot different, with exception of the City took the initiative, bought the land and the people did not have a choice other than to sell the land to them. Where in this particular case, it was initiated by the people of the City of Maize, and the people said they want to be in Maize, Kansas, and not Wichita.

MITCHELL I have been around public government for a long time, and I can remember when the Comprehensive Plan said we are not going to provide any services west of the Big Ditch, and what I am getting at is that the Comprehensive Plan has to be flexible, and when I look at those curved lines that are the 2010 and 2030 lines, they don't fit anything that would be a logical development. It is a gross estimate at best, and to say that because the line crossed something that the Maize residence or area wanted doesn't comply with the Comprehensive Plan, that is placing far too much importance on those line.

BISHOP So let me see if I understand this correctly, we establish a Comprehensive Plan with a number of different things involving, transportation, annexation, infrastructure, budgetary, CIP. We are asked to make a decision based on consistency or inconsistency with that Comprehensive Plan, and what I hear, frankly, is sort of an un-planning bias that says we don't want to do that. We don't want to look at the plan or make a decision of inconsistency with that Comprehensive Plan. The plan is just a plan.

8. **Case No.: DR2003-17** - The City of Kechi seeks annexation of properties located adjacent to The City of Kechi, west of Highway 254 and north of 53rd Street North.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **COULTER** seconded the motion, and it carried (11-0).

9. **Case No.: DR2003-19** - Requested Boundary Alternations to Sedgwick County Fire District No. 1

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **COULTER** seconded the motion, and it carried (11-0).

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10. **Case No.: DR2003-20** - The City of Maize seeks annexation of properties located west of North Maize Road and south of 37th Street North

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **COULTER** seconded the motion, and it carried (11-0).

11. Other matters/adjournment.
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The Metropolitan Area Planning Department informally adjourned at 3:00 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2003.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)